

ORIGINAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - X
:
UNITED STATES OF AMERICA :
:
- v. - :
:
ANDREW LOWERY, :
:
Defendant. :
:
- - - - - X

SEALED
INFORMATION
16 Cr. 503

COUNT ONE
(Conspiracy Against Rights)

The United States Attorney charges:

1. On or about November 12, 2013, in the Southern District of New York, ANDREW LOWERY, the defendant, and others known and unknown, while serving as a correction officer of the New York State Department of Corrections and Community Supervision ("DOCCS") and acting under color of the laws of the State of New York, willfully and knowingly did combine, conspire, confederate and agree with other correction officers to injure, oppress, threaten, and intimidate a person in the State of New York in the free exercise and enjoyment of the rights and privileges secured to him by the Constitution and laws of the United States to be free from the deprivation of liberty without due process of law, which includes the rights (a) to be secure in his person, that is the right to be free from the use of unreasonable physical force and (b) to be free from the use of

unreasonable force amounting to the infliction of cruel and unusual punishment by one acting under color of law, to wit, LOWERY and others, while acting as correction officers employed by DOCCS, assigned to the Downstate Correctional Facility in Fishkill, New York, agreed to assault Kevin Moore and in fact assaulted Kevin Moore, who was held in the custody of DOCCS, by striking and kicking him.

(Title 18, United States Code, Section 241.)

COUNT TWO
(Deprivation of Rights Under Color of Law)

The United States Attorney further charges:

2. On or about November 12, 2013, in the Southern District of New York, ANDREW LOWERY, the defendant, while acting under color of the laws of the State of New York, did willfully and knowingly subject Kevin Moore, then a person in the State of New York, to the deprivation of rights secured and protected by the Constitution and the laws of the United States to be free from the deprivation of liberty without due process of law, which includes the rights (a) to be secure in his person, that is the right to be free from the use of unreasonable physical force and (b) to be free from the use of unreasonable force amounting to the infliction of cruel and unusual punishment by one acting under color of law, resulting in bodily injury to Kevin Moore, to wit, LOWERY, while acting as a correction officer employed by the New York State Department of

Corrections and Community Supervision ("DOCCS") assigned to the Downstate Correctional Facility in Fishkill, New York, assaulted Kevin Moore, an inmate held in the custody of DOCCS, causing bodily injury to Kevin Moore.

(Title 18, United States Code, Sections 242 and 2.)

COUNT THREE
(Conspiracy to Falsify Records)

The United States Attorney further charges:

3. From on or about November 12, 2013, through in or about April 2016, in the Southern District of New York and elsewhere, ANDREW LOWERY, the defendant, and others known and unknown, willfully and knowingly combined, conspired, confederated, and agreed together and with each other to commit offenses against the United States, to wit, the falsifying of documents, in violation of Title 18, United States Code, Section 1519.

4. It was a part and an object of the conspiracy that LOWERY, the defendant, and others known and unknown, knowingly would and did alter, destroy, mutilate, conceal, cover up, falsify, and make a false entry in a record, document, and tangible object with the intent to impede, obstruct, and influence the investigation and proper administration of a matter within the jurisdiction of a department and agency of the United States, to wit, LOWERY and his co-conspirators agreed to falsify New York State Department of

Corrections and Community Supervision logbooks and use of force reports with the intent to impede the investigation of the injuries inflicted on Kevin Moore, an inmate at the Downstate Correctional Facility in Fishkill, New York, which investigation falls within the jurisdiction of the United States Attorney's Office for the Southern District of New York, in violation of Title 18, United States Code, Section 1519.

Overt Acts

5. In furtherance of the conspiracy, and to effect the illegal object thereof, ANDREW LOWERY, the defendant, and others known and unknown, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. On or about November 12, 2013, LOWERY wrote entries into a logbook of the Downstate Correctional Facility that contained false, misleading, and incomplete information about the use of force incident with inmate Kevin Moore.

b. On or about November 12, 2013, a co-conspirator not named as a defendant herein ("CC-1") submitted use of force reports to the Downstate Correctional Facility that contained false, misleading, and incomplete information about the use of force incident with inmate Kevin Moore.

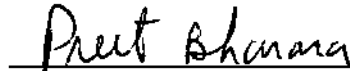
(Title 18, United States Code, Section 371.)

COUNT FOUR
(Falsifying Records)

The United States Attorney further charges:

6. On or about November 12, 2013, ANDREW LOWERY, in the Southern District of New York, the defendant, knowingly altered, destroyed, mutilated, concealed, covered up, falsified, and made a false entry in a record, document, and tangible object with the intent to impede, obstruct, and influence the investigation and proper administration of a matter within the jurisdiction of a department and agency of the United States, to wit, LOWERY wrote entries into a logbook of the Downstate Correctional Facility that contained false, misleading, and incomplete information about the use of force incident with inmate Kevin Moore, with the intent to impede the investigation of the injuries inflicted on Moore, which investigation falls within the jurisdiction of the United States Attorney's Office for the Southern District of New York.

(Title 18, United States Code, Section 1519.)


PREET BHARARA
United States Attorney

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(18 U.S.C. §§ 241, 242, 371, 1519, 2.)

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United States Attorney.